

Dear Todd Kim,

I am writing to urge you not to accept the proposed consent decree for the case *U.S., ET AL. V. HONEYWELL INTERNATIONAL, INC.* As the Consent Decree states, “Defendant Honeywell International Inc. (“Honeywell”) is [allegedly] liable to the Plaintiffs under Section 107 of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9607.”<sup>1</sup> Despite the fact that Honeywell is responsible for the destruction of natural resources as a result of dumping hazardous materials into the Buffalo river for almost a decade, and are one of the highest polluting companies in the United States, they are still only being required to pay for minimal improvements to the environment they poisoned.<sup>2</sup> The people of the United States and the State of New York deserve better than this settlement will offer them.

An article from ISS Source quoted you saying, “The Justice Department is committed to working with state and Tribal partners to restore and preserve natural resources and their services for the benefit of the public, including low-income and minority communities...The proposed settlement shows how we will strive to promote environmental justice in holding polluters to account.”<sup>3</sup> I believe that a better way to hold polluters accountable is to make them pay enough to make a substantial improvement to the ecosystems they harm, and to deter them from making similar mistakes in the future. Honeywell is a prime example of a company that has profited by cutting costs and polluting. The people of the United States should not have to supplement the

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<sup>1</sup> Consent Decree, 7

<sup>2</sup> Knott, 1

<sup>3</sup> “Settlement in Hazardous Chemical Releases from 60s.”, 1

profits of a multibillion dollar company by cleaning up their pollution, and only making them pay minimal rehabilitation costs.

There are some parts of the Consent Decree which I agree with, such as allocating money to Cultural Restoration Projects. Still, I believe that Honeywell should be forced to take more accountability for their past actions and invest more money into the natural resource restoration, cultural restoration, and recreational use projects. I also think that 7 acres is too small of an amount of land to allocate for the park, especially when it is to be dissected by railroads, and that more land should be added to the reserve.

Honeywell International is ranked 94 on the Fortune 500 list, the magazine's write-up for the company provides, "Known for making everything from cockpit controls to N95 masks, Honeywell dipped two spots, to No. 94, on this year's list...By the end of 2020, Honeywell had an enviable \$15.2 billion in cash and equivalents on the balance sheet, which it could use for acquisitions."<sup>4</sup> Even after being financially stunted this past year because of COVID, the company is still extremely profitable. Therefore, the proposed settlement of \$4,250,000 is not enough money to hold Honeywell accountable for the harm they've caused the environment. In 2019 Honeywell spent more than \$5 million dollars just on lobbying.<sup>5</sup> In this case the Consent Decree would allow Honeywell to spend even less than that to settle this case.

\$4,250,000 is not enough money to deter Honeywell from continuing to pollute and failing to clean it up, especially given their track record. Honeywell has a rich history of pollution, the Center for Public Integrity has linked Honeywell to 128 superfund sites.<sup>6</sup> They were likewise ranked 41 on the EPA's list, "Top 100 PRPs [Potentially Responsible Parties]

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<sup>4</sup> Fortune, 1

<sup>5</sup> OpenSecrets, 1

<sup>6</sup> Knott, 1

Based on Number of Sites At Which They Are Involved," which was leaked to the Center for Public Integrity, and last updated in 2002.<sup>7</sup> Furthermore, according to that same article, "In the five years since the list was updated, the number of Superfund sites has changed by less than 5 percent, according to the Center's analysis — so the companies associated with the majority of them have remained largely the same." at least in 2007.<sup>8</sup> This seems to be true though in fact, New Jersey is currently suing Honeywell for polluting the Hudson River, the attorney general there commented, ""The corporations we're suing knew full well the potential harms they were inflicting on our environment, but chose to forge ahead anyway," Grewal said in a statement. "When companies disregard the laws meant to protect our environment, they can expect to pay."<sup>9</sup> His statement rings equally true in terms of this case.

The terms of the current Consent Decree provide that:

*"Within thirty (30) days of the Effective Date of this Consent Decree, Honeywell shall pay the Trustees a total of \$4,250,000, as follows:*

- a. \$682,100 for past United States' assessment costs ("Assessment Costs");*
- b. \$1,355,720 for natural resource habitat restoration projects ("Habitat Restoration Projects");*
- c. \$606,710 for the Concrete Central Natural Resource Restoration Project;*
- d. \$277,150 for the Houghton Park Natural Resource Restoration Project;*
- e. \$179,500 for the CSXT City Ship Canal Natural Resource Restoration Project;*
- f. \$215,400 for Oversight Costs to oversee completion of the above Projects;*
- g. \$359,005 for projects to compensate for lost recreational use of natural resources;*

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup>Fallon, 1

*h. \$574,415 for Cultural Restoration Projects and Cultural Assessment Costs.”<sup>10</sup>*

I have no issue with the valuation of the assessment costs, but the amount of money attributed to the rest of these categories is not enough to make significant improvements to the region's natural resources and culture. In comparison the EPA reported that, “Twenty habitat restoration projects, funded by the GLRI for a total cost of \$22 million, were completed in the Buffalo River AOC in 2019. These projects restored almost 20,000 linear feet of shoreline to a more natural state with gently sloping banks and native aquatic vegetation.”<sup>11</sup> Even with this significant investment there is much more work to be done, and another five million dollars is unlikely to go very far in light of how expensive it is to restore the shoreline. Likewise, Honeywell will end up paying more for the assessment costs than they will be for any of the other categories other than Habitat Restoration Projects. It is hard to believe that it costs more to assess the damage done by Honeywell than it will cost to oversee the completion of said projects and rehabilitate the culture and recreational use of the Buffalo River.

Furthermore, this is not an adequate amount of money to meet the objectives of the parties which are to:

*“(i) promote restoration, replacement, or acquisition of the equivalent of the natural resources allegedly injured, destroyed or lost as a result of hazardous substance and oil releases at or from the Site; (ii) reimburse natural resource damage assessment costs incurred by the Trustees; (iii) resolve the claims of Plaintiffs against Honeywell, CSXT, and the Other Settling Parties for Natural Resource Damages as provided herein; and (v) avoid further transaction costs and time-consuming litigation.”<sup>12</sup>*

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<sup>10</sup>Consent Decree, 14

<sup>11</sup> Glancarlo, 1

<sup>12</sup> Consent Decree, 14

This settlement would not do much of anything to satisfy the first goal. While settling would help to avoid further translation costs and the time of litigation, these savings amount to a drop in the ocean considering how long this area has been dealing with the fallout of Honeywells pollution, and how much money and time has already been spent to address these issues.

The Consent Decree further provides that 70 acres be set aside for use as a conservation area. In comparison the smallest national park in the United States is the Gateway Arch in St. Louis, MO, this park is 192 acres.<sup>13</sup> While not all parks need to be the size of federal parks, 7 acres of conservation area are not going to make much of an impact on natural resource rehabilitation when it is going to be surrounded by polluted water and urban development. While the Trustees determined that the benefits of these projects will offset the initial harm caused by construction, the benefit would be much greater if more land was preserved. Likewise, the mere 70 acres allotted are to be dissected by train tracks. This is an issue for habitat connectivity which was one of the site specific criteria noted in the Buffalo River Restoration Plan.<sup>14</sup> Habitat connectivity is important because having one whole parcel of land for conservation is much more beneficial to native species, than having several smaller segments which are separated by railroads. There is sure to be noise pollution caused by the railway which will diminish the benefits of the park to native animal species. The noise and proximity to railways will also diminish the recreational enjoyment to be had there.

Likewise after being denied the benefits of the Buffalo River for so long, it seems unjust to confine the Tuscarora Nations access to the River to only 7 acres. The Buffalo River Restoration Plan provides that,

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<sup>13</sup> John, 1

<sup>14</sup> DRAFT, 5

*“Cultural use of the Buffalo River natural resources has been injured by releases of hazardous substances. Haudenosaunee People depended on the aquatic systems of the Buffalo-Niagara River watershed as a food, agricultural, medicinal, ceremonial, transportation, and recreational resource, to name a few, until development, loss of access, and toxic contamination of the aquatic natural resources. In addition, Haudenosaunee language fluency suffers when natural resources are absent from the culture due to loss of language connection to the natural resources. Survival of the Tuscarora culture and language is intimately intertwined with the health of the land, air, water, fish, wildlife, plants, medicines, trees, and the ecosystem as a whole. Through the restoration of natural resources at the site, the Tuscarora Nation hopes that it will once again become a place for Haudenosaunee People to swim, fish, canoe, gather, play, and learn. Through the restoration of cultural resources at the site, the Tuscarora Nation hopes that cultural sites will be better protected and that there will be greater public knowledge about the Haudenosaunee historical and cultural resources located along the Buffalo River.”<sup>15</sup>*

Not only should more land be set aside for the Tuscarora people to enjoy the river, but Honeywell should be required to invest more than \$574,415 to cultural restoration projects. This is especially true when a portion of that money goes towards assessing what cultural harm has been done. One example of this type of program is the Lomakatsi Restoration Project.<sup>16</sup> This program has empowered native tribes throughout California and Oregon to have a positive ecological impact.<sup>17</sup> In order to model this program in New York, Honeywell needs to contribute

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<sup>15</sup> *Id.*

<sup>16</sup> “Tribal Ecosystem Restoration Partnership Program.”, 1

<sup>17</sup> *Id.*

more than \$574,415 to cultural restoration. An investment like the one made in the Lomakatsi Restoration Project could pay back dividends in the future, and would go further to rehabilitate the Tuscarora culture.

Another issue for the people of New York has been the major loss of recreational capacity in the region due to Honeywell's pollution. According to the Buffalo River Restoration Plan:

*“The Buffalo River, City Ship Canal, navigable waterways, and Times Beach Nature Preserve serve as unique local recreational resources utilized by the public. Current recreational uses include boating (e.g., canoeing, kayaking, paddle boarding, and power boating), recreational fishing, aesthetic appreciation/ wildlife viewing, and swimming. To varying extents, the presence of contaminants has impaired all of these activities. Recreational fishing along the Buffalo River and City Ship Canal has been negatively impacted by releases of hazardous substances and the resulting issuance of fish consumption advisories. The presence of fish consumption advisories constitutes an injury under the DOI regulations, “[a]n injury to a biological resource has resulted from the discharge of oil or release of a hazardous substance if the concentration of the substance is sufficient to: ...[e]xceed levels for which an appropriate State health agency has issued directives to limit or ban consumption of such organism” (43 CFR §11.62 (f)(1)(iii)).”<sup>18</sup>*

Even with the polluted waters, the Trustees Advisory Injury Determination provides that, “During 2003-2004, an estimated 12,784 person-days of recreational use occurred on the River,

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<sup>18</sup> Draft, 5

equivalent to approximately five percent of the recreational park use in Erie County. Of these visits to the River, approximately 27 percent or 3,452 person-days were for fishing.”<sup>19</sup> This goes to show that the Buffalo River still has recreational potential. Still, the idea of fishing in a river that has been so heavily polluted that people are cautioned only to eat fish from it once a month, must have an extremely negative effect on the fishing and boating industries. It is going to take money not only to clean the river up, but also to educate people on the progress being made and restore the public’s perception of this river before it can have any real recreational value. Still an additional investment in the recreational potential of this area would go a long way to providing minorities with access to nature.

Honeywell has a rich history of pollution, and is more than financially capable of investing more money into restoring the natural resources they’ve destroyed. Still, they have done little to account for the costs they have imposed on the US Federal government, the New York State government, and the American and Native American people who live near their waste sites. This Consent Decree would not even amount to a slap on the wrist for a company such as Honeywell, and would do little to repair the harms they have profited from. It is for these reasons that I urge you to reconsider agreeing to the Consent Decree.

Comment By,

Victoria Weitkamp

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<sup>19</sup> Lewis, 10



### Bibliography

Christopher Lewis, David Henry, and Robert Unsworth. “Buffalo River: Fish Consumption Advisory Injury Determination.” *Dec.ny.gov*, 12 Dec. 2011, [www.dec.ny.gov/docs/remediation\\_hudson\\_pdf/nrdrestproprev.pdf](http://www.dec.ny.gov/docs/remediation_hudson_pdf/nrdrestproprev.pdf).

Fallon, Scott. “New Jersey Sues Honeywell over Contamination in Edgewater and Hudson River.” *North Jersey Media Group*, NorthJersey.com, 10 Nov. 2020, [www.northjersey.com/story/news/environment/2020/11/10/honeywell-superfund-lawsuit-nj-over-edgewater-nj-and-hudson-river-contamination/6224306002/](http://www.northjersey.com/story/news/environment/2020/11/10/honeywell-superfund-lawsuit-nj-over-edgewater-nj-and-hudson-river-contamination/6224306002/).

Giancarlo, Mary B. “Buffalo River AOC.” *EPA*, Environmental Protection Agency, 30 Sept. 2021, [www.epa.gov/great-lakes-aocs/buffalo-river-aoc](http://www.epa.gov/great-lakes-aocs/buffalo-river-aoc).

“Honeywell International Lobbying Profile.” *OpenSecrets*, OpenSecrets, [www.opensecrets.org/federal-lobbying/clients/summary?cycle=2019&id=D000000334](http://www.opensecrets.org/federal-lobbying/clients/summary?cycle=2019&id=D000000334).

John. “US National Parks by Size.” *Park Ranger John*, 29 Sept. 2021, [www.parkrangerjohn.com/us-national-parks-by-size/](http://www.parkrangerjohn.com/us-national-parks-by-size/).

Knott, Alex. "EPA Document Lists Firms Tied to Superfund Sites." *Wasting Away - the Center for Public Integrity*, 2007,  
[web.archive.org/web/20080612112918/www.publicintegrity.org/superfund/report.aspx?aid=849](http://web.archive.org/web/20080612112918/www.publicintegrity.org/superfund/report.aspx?aid=849).

Name. "Settlement in Hazardous Chemical Releases from 60s." *ISSSource*, 23 Nov. 2021,  
[isssource.com/settlement-in-hazardous-chemical-releases-from-60s/](http://isssource.com/settlement-in-hazardous-chemical-releases-from-60s/).

Staff, Fortune. "Honeywell International: 2021 Fortune 500." *Fortune*, Fortune, 3 Aug. 2021, [fortune.com/company/honeywell-international/fortune500/](http://fortune.com/company/honeywell-international/fortune500/).

"Tribal Ecosystem Restoration Partnership Program." *Tribal Ecosystem Restoration Partnership Program / Lomakatsi Restoration Project*, [lomakatsi.org/tribes/](http://lomakatsi.org/tribes/).

United States Fish and Wildlife Service. "Draft Restoration Plan and Environmental Assessment for ..." *Fws.gov*, Sept. 2019,  
[www.fws.gov/northeast/nyfo/ec/buffalo/DRAFT\\_Buffalo\\_River\\_Restoration\\_Plan\\_Environmental\\_Assessment\\_September\\_2019.pdf](http://www.fws.gov/northeast/nyfo/ec/buffalo/DRAFT_Buffalo_River_Restoration_Plan_Environmental_Assessment_September_2019.pdf).